

7-2337

DEPARTMENT OF THE INTERIOR AND RELATED  
AGENCIES APPROPRIATIONS FOR 1996

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON THE DEPARTMENT OF THE INTERIOR AND  
RELATED AGENCIES

**RALPH REGULA, Ohio, Chairman**

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NOTE Under Committee Rules, Mr Livingston, as Chairman of the Full Committee, and Mr Obey, as Ranking  
Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees

DEBORAH WEATHERLY, LORETTA BEAUMONT, MARK MIODUSKI, and JOEL KAPLAN,  
Staff Assistants

PART 11

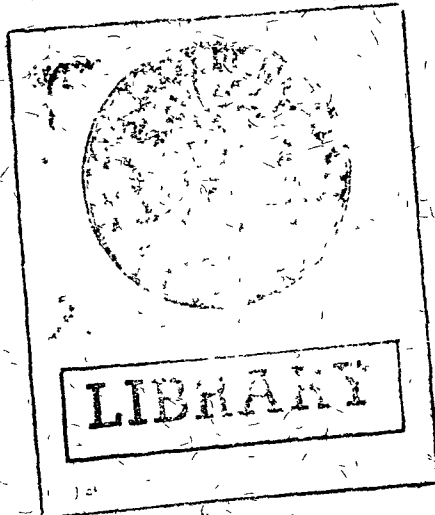
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WASHINGTON 1995



WEDNESDAY, MARCH 8, 1995

## BUREAU OF INDIAN AFFAIRS

### WITNESSES

ADA DEER, ASSISTANT SECRETARY, INDIAN AFFAIRS

MICHAEL ANDERSON, ACTING DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS

OSCAR W. MUELLER, JR., DIRECTOR, OFFICE OF CONSTRUCTION MANAGEMENT

HILDA MANUEL, DEPUTY COMMISSIONER OF INDIAN AFFAIRS

JOHN TIPPECONNIC, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS

DONNA ERWIN, ACTING DIRECTOR, OFFICE OF TRUST FUNDS MANAGEMENT

JOANN SEBASTIAN-MORRIS, ACTING DIRECTOR, OFFICE OF TRIBAL SERVICES

GARY CECCUCCI, CHIEF, DIVISION OF PROGRAM DEVELOPMENT AND IMPLEMENTATION

### OPENING REMARKS OF ADA DEER

Mr. REGULA [presiding]. Ada Deer, the Assistant Secretary, who I assume is going to do the honors this morning. Am I correct?

Ms. DEER. Hello, Mr. Chairman.

Mr. REGULA. Nice to meet you.

Ms. DEER. Nice to meet you.

Mr. REGULA. Well, we're pleased to welcome you, Madam Secretary, and your full statement will be made a part of the record, without objection. You may summarize as you choose, and then we'll have some questions.

Ms. DEER. Okay. Good morning, Mr. Chairman. I am pleased to be here to present the President's Fiscal Year 1996 budget request for the Bureau of Indian Affairs. I ask that my formal statement be entered into the record, and I appreciate that very much.

Mr. REGULA. Without objection.

Ms. DEER. I will briefly highlight aspects of the budget.

Overall, the BIA request totals \$2.4 billion, which includes \$1.9 billion for current appropriations and \$448 million for permanent appropriations and trust funds. I have some charts that will help put the budget request in perspective, and they're up there. They're also in the information that you should have.

### OVERVIEW FY 1996 BUDGET REQUEST

The first chart compares the BIA's budget request over the past five years. For Fiscal Year 1996, President Clinton and Secretary Babbitt are asking the Congress to provide \$1.9 billion in current appropriations, the largest amount ever requested for BIA programs. In April 1994, the President met with the leaders of over

INTERIOR APPROPRIATIONS SUBCOMMITTEE  
HEARING QUESTIONS

BUREAU OF INDIAN AFFAIRS

FY 1995 Appropriations	\$1,747,091
FY 1996 Request	\$1,910,441
Difference	+\$163,350
FY 1995 Staffing	12,732
FY 1996 Staffing	12,626
Difference	-106

General

**Question 1:** The Department is proposing an increase of \$163 million above the FY 1995 enacted level for the Bureau of Indian Affairs (BIA), the single largest increase in the Department. In FY 1995, Government-wide funding for Native American programs totaled over \$6 billion, of which only \$1.7 billion came from BIA. To what extent do you consider other federal funding when you are formulating your budget and prioritizing your programs? For example, how does the BIA's economic development programs complement the economic development programs administered by the Administration of Native Americans?

**Answer:** BIA program managers maintain contact with their counterparts in other federal agencies, such as the Fish and Wildlife Service, Indian Health Service (IHS), and the Department of Education, to coordinate policies and programs and to assure that our resources complement rather than duplicate services to Indian tribes. BIA monitors legislation proposed for other federal programs, such as transportation, housing, and education, for impacts on and opportunities for Indian tribes. Often, legislation requires program coordination between BIA and other federal agencies, such as IHS, Labor, and Justice.

While the Administration of Native Americans (ANA) provides planning grants to tribes (no individual tribal members) for social and economic development strategies, the Bureau provides loans and grants to tribal and individual tribal member businesses. When a tribe has developed a strategy under an ANA planning grant which calls for a business, that business may apply for and receive a Bureau loan or grant. In this manner, the tribe controls the coordination of all federal programs available to them.

**Question 2:** Given the magnitude and complexity of the various Native American programs one-stop-shopping would make a lot of sense. I understand that BIA is working on this concept. What federal agencies are part of this effort? How will this program be implemented?

**Answer:** The Pine Ridge reservation is participating with the Bureau in a Reinvention Laboratory. The goal of the laboratory is to reengineer Federal Indian programs through

Memoranda of Understanding with other federal agencies through which Federal resources would be provided directly (one-stop shopping) to the Oglala Sioux Tribe. The tribe has been contracting programs with these eight agencies to provide delivery of services to their own people. The pilot project is to combine these eight contracts into a single agreement, alleviating the need to comply with cumbersome reporting requirements, contracting procedures and complex accounting processes currently used by the eight individual agencies. It is anticipated that this will occur close to the beginning of FY 1996.

The eight federal agencies are involved in this pilot project are the Department of Health and Human Services, including the Indian Health Service, Department of Education; Department of Agriculture; Department of Housing and Urban Development, Environmental Protection Agency, Small Business Administration; Department of Labor; and Department of Transportation.

The Navajo Nation and Mille Lacs Band of Chippewa have also submitted proposals to examine one-stop shopping for their reservations. These proposals are currently under review.

**Question 3:** How will area office closures effect this proposal?

**Answer:** The Bureau has suspended its plans to reduce the number of Area Offices at the current time, unless tribes in a particular area are in agreement that closure is the preferred way to accomplish streamlining.

**Question 4:** There is a general sense that with an increase in self-determination and self-governance among Indian tribes there would be a reduction in federal programs. However, between FY 1986 and FY 1995 funding for BIA has increased by \$670 million, or 78 percent. Is this perception incorrect? If this perception is correct, when can we expect funding levels to begin to decline?

**Answer:** This perception is incorrect. Indian self-determination contracts and self governance compacts enable tribes to operate the federal programs with local flexibility to address tribal needs and priorities. These needs are not reduced through tribal contracts and compacts. Many tribes that are contracting and compacting are relatively new governments that take time to become fully developed.

Additionally, the BIA budget has not kept pace with the population growth over the past decade. Indian populations on reservations increased from 786,000 in 1985 to 1,184,000 in 1993, or by almost 51 percent in eight years. Indian reservations have a 36 percent average unemployment rate and average family income remains significantly below the national poverty level.

**Question 5:** If the budget for BIA can not be sustained, how would you prioritize the budget to accommodate the following funding levels: 1) a freeze at the FY 1995 enacted level, and 2) 10 percent below the FY 1995 enacted level?

**Answer:** The BIA has been called "the lifeline of the Tribes" because the Tribes depend on BIA for the funding of a broad spectrum of programs critical to improving life on the reservation and

schools with their budget until one third of the school year has passed. This policy is under review by the Bureau in an attempt to improve program management.

**Question 47:** BIA operated schools are required to pay teachers at the Department of Defense pay rate. However, BIA schools contracted out to the tribes are under no such funding constraints. Doesn't this pose serious allocation problems within the BIA system? Is there any way for the Department to address this issue?

**Answer:** Bureau operated schools report that the requirement to pay teachers according to the Department of Defense (DOD) salary schedule is a major budgetary factor. In previous years, some schools have had to close early due to their inability to pay teachers' salaries. Contract and grant schools are exempt from this requirement, so they have the flexibility to put their budget dollars toward other needs, such as books and computers. The Bureau includes a projected adjustments for DOD pay increases in its annual budget request for all Bureau funded schools consistent with the Indian self-determination statutes. Current law also requires that school operations funds be distributed to schools according to the same formula, regardless of the requirement to meet the DOD schedule. In 1994, the Department proposed amendments to the Indian education sections of the Improving America Schools Act of 1994. The proposal would have allowed each school to set its own salary schedule. The proposal was not included in the final legislation.

**Question 48:** IHS has a demonstration program that allows tribes to build their own health care facilities. Under this initiative, IHS agrees to staff, purchase all equipment, and fund operation and maintenance. Do you think such a new approach can be used to build schools?

**Answer:** The Department recently submitted to Congress a study on Alternative Funding which presented several methods tribes could use to provide resources for the construction of schools. This approach appears to have merit.

There are instances when tribes have used their own resources to construct a school or replaced their school buildings, such as Mille Lacs and Oneida tribes. The Department supports Tribes replacing school buildings, however there is a moratorium on increasing the number of schools in the BIA's system. After all appropriate health, safety, and building codes were met, these buildings were entered into the Bureau's inventory. Operations and maintenance funds are provided to maintain the facilities. The Department is interested in other opportunities to cooperate with Indian tribes in employing innovative approaches to replace schools.

#### New Programs

**Question 49:** There is a \$13 million proposal in your budget to reimburse individual Indian account holders for foregone interest payments as a result of failed financial institutions. While this would be a nice thing to do, it is not done for any other group of Americans. Why would you propose this increase when there are other high-priority Indian programs that lack adequate funding?

**Answer:** The American Indian Trust Fund Management Reform Act of 1994 (*Public Law 103-412*) authorizes payment for these interest losses. The amount of this obligation grows each year. A 1991 decision by the Comptroller General found that the Bureau was not liable for interest related to principal losses on Individual Indian Money (IIM) accounts, because the law did not require interest to be paid. The 1994 Act requires the Secretary to pay interest retroactively on IIM accounts if a claim is identified, subject to the availability of funds. Under law, the Bureau is required to fully protect principal. The Bureau was negligent in not ensuring that these funds were fully protected. Losses relating to failed financial institutions occurred between 1984 and 1988. The IIM account pool was reimbursed for these principal losses in fiscal years 1994 and 1995. Because of the significant delay in reimbursing the account pool for lost principal, the income distributed to the account holders has been less than the rate of return on the account pool for more than six years. Until the account pool is reimbursed, the gap between the rate of return on the account pool and the effective rate of return on the income distributed to the account holders will continue to grow.

**Question 50:** Your budget contains an additional \$13 million to purchase highly fractionated interests in Indian lands. The Committee is sensitive to the costs and work load requirements associated with the Bureau's realty, land records, and accounting management systems. However, is this \$13 million simply a down payment for a much larger program (+\$300 million)? Your proposal assumes no-net-cost for the treasury, but in fact, these funds would have to be appropriated up-front and hence scored against this Committee's allocation. Isn't this the case?

**Answer:** It is estimated that it would cost a total of \$300 million to consolidate all the less than 2 percent interests. An integral part of the draft legislation is recoupment of the purchase price through some mechanism such as placing an encumbrance on the income earned by these lands from rents, royalties, etc. If done this way the net cost to the government will be much lower. Costs would include: interest costs, shortfalls attributable to overestimates of fair market value, and costs related to acquisition of lands with administrative costs which exceed their value. In addition to recouping the purchase price, significant future savings are also anticipated in the costs of administering allotted land. It is estimated that approximately 50 to 75 percent of BIA's realty budget and 50 percent of BIA's agricultural budget goes to administering these fractional interests even though these lands comprise less than 20 percent of all trust land. Other programs are also adversely impacted, including trust funds and forest management. The recoupment and administrative savings will not occur, however, until several years after acquisition, requiring that the funds be scored up front. The extent of the problem and the cost to remedy it will continue to grow. A similar proposal was made in the early 1960s. At that time, it was estimated that it would cost \$50 million to consolidate highly fractionated interests. An even more rapid rate of growth in the cost of remedying this situation will occur with additional delays in remediation.

**Question 51:** Is it possible to create the revolving fund by somehow collecting fees prior to purchasing the land interests?

**Answer:** The Secretary is authorized, at his discretion, under 25 USC 413 "to collect reasonable fees to cover the cost of any and all work performed for Indian Tribes or for

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# DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS FOR 1996

## HEARINGS

BEFORE A

### SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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*Staff Assistants*

## PART 2

### Justification of the Budget Estimates

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DEPARTMENT OF THE INTERIOR  
Office of Surface Mining Reclamation and Enforcement  
Employee Count by Grade

	1994 Actual	1995 Estimate	1996 Estimate
Executive Level V	1	1	1
Executive Subtotal	1	1	1
ES-6	1	1	1
ES-5	0	0	0
ES-4	4	4	2
ES-3	0	3	0
ES-2	2	1	2
ES-1	2	1	1
ES Subtotal	9	10	6
GS/GM 15	38	30	25
GS/GM 14	86	80	70
GS/GM 13	195	193	185
GS/GM 12	309	316	316
GS/GM 11	71	71	81
GS/GM 10	1	1	1
GS/GM 9	26	31	32
GS/GM 8	16	16	16
GS/GM 7	73	71	71
GS/GM 6	69	65	65
GS/GM 5	56	57	60
GS/GM 4	10	12	12
GS/GM 3	3	3	3
GS/GM 2	4	4	4
GS/GM 1	3	2	1
Subtotal	960	952	942
Ungraded	1	2	2
Total Employment (actual/projected) at end of fiscal year	971	965	951

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUDGET JUSTIFICATIONS, F.Y. 1996



BUREAU OF INDIAN AFFAIRS

NOTICE: These budget justifications are prepared for the Interior and Related Agencies Appropriations Subcommittees. Approval for release of the justifications prior to their printing in the public record of the Subcommittee hearings may be obtained through the Office of Budget of the Department of the Interior.

## MISCELLANEOUS PAYMENTS TO INDIANS

Program Element		1995 Enacted To Date	Uncontroll- able Changes	Program Changes	1996 Budget Request	Change From 1995
White Earth Land Settlement Act (Adm )	\$(000)	596	26	0	622	26
	FTE	14	0	0	14	0
Old Age Assistance Administration	\$(000)	216	9	0	225	9
	FTE	4	0	0	4	0
Hoopa-Yurok Settlement	\$(000)	233	5	0	238	5
	FTE	4	0	0	4	0
Total Requirements	\$(000)	1,045	40	0	1,085	40
	FTE	22	0	0	22	0

**Objective** To compensate Indian individuals and tribes for divested ownership of land and other specified purposes as authorized by enacted legislation and court settlements

**FY 1995 Plans and Accomplishments (\$1,045,000; FTE 22).** Plans and accomplishments for these programs are described in the narratives below

**White Earth Reservation Land Settlement Act (\$596,000; FTE 14)** Funds are used to investigate and verify questionable transfers of land by which individual Indian allottees, or their heirs, were divested of ownership and to achieve the payment of compensation to said allottees or heirs in accordance with the Act (*Public Law 99-264*). Over 2,500 compensation payments will be made in FY 1995

**Old Age Assistance Claims Settlement Act (\$216,000; FTE 4)** Funds are used to identify, notify, and compensate individuals entitled to payment under the Old Age Assistance Claims Settlement Act (*Public Law 98-500*), complete work relating to any remaining claims, and locate and compensate individuals whose whereabouts are unknown

**Hoopa-Yurok Settlement Act (\$233,000; FTE 4)** Funds are used for administrative expenses associated with the completion of section 4(c)(d) and 6(c) of the Hoopa-Yurok Settlement Act (*Public Law 101-580*), the Hoopa-Yurok Settlement Roll

## TRUST FUND DEFICIENCIES

Program Element		1995 Enacted To Date	Uncontroll- able Changes	Program Changes	1996 Budget Request	Change From 1995
Trust Fund Deficiencies	\$(000)	3,000	0	10,668	13,668	+10,668

**Objectives**

- To reimburse tribes and/or individual Indians for principal and interest losses due to under-recovery of trust funds invested with failed financial institutions
- To reimburse Indian tribal and individual trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgement and/or settlement agreement approved by the Department of Justice
- To liquidate obligations owed tribal and individual Indian payees for any U S Treasury checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 [*Public Law 100-86, 101 Stat 659, 31 U S C 3334(b)*]

**FY 1995 Plans and Accomplishments (\$3,000,000)** The federal government is obligated by statute and treaty to properly discharge its fiduciary responsibilities to tribes and individual Indians, including accounting for Indian trust funds and accurately maintaining the trust corpus through prudent management and investment of funds, as appropriate, to maximize income to the extent possible. These funds will be used to pay for principal and interest losses related to failed financial institutions, and to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgement and/or settlement agreement approved by the Department of Justice and to liquidate obligations owed tribal and individual Indian payees for canceled U S Treasury checks

Economic Development trust fund, in accordance with the provisions of *Public Law 101-618*. The remaining \$2 million will be used to purchase Truckee River water rights to support the recovery of Cui-ui and Lahontan cutthroat trout (endangered and threatened fish addressed in Section 207) by providing water for spawning flows, instream flows for improved riparian habitat, improvement of water quality, and raising the water level of Pyramid Lake.

**Trust Fund Deficiencies (+\$10,668,000)** Within the \$13,668,000 requested for FY 1996, \$1 million is to continue reimbursing account holders for losses where the claim for such losses has been reduced to a judgment or settlement agreement approved by the Department of Justice. The \$12,668,000 requested is for payments to IIM account holders for interest earned but not paid because of defaults in institutions that were not federally insured, pursuant to the American Indian Trust Fund Management Reform Act of 1994 (*Public Law 103-412*). The following table provides detail of the use of funds appropriated to date for trust fund deficiencies.

Type or Payment	FY 1993 (\$000)	FY 1994 (\$000)	FY 1995 (\$000)
Failed Institutions			
Principal	1,066	3,139	1,769
Interest	0	0	0
Claims & Settlements	948	2	1,231
Mass Cancellation	845	0	0
Overdrafts	0	0	0
Total	2,859	3,141	3,000

STANDARD FORM 300  
July 1994

DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS  
PAYMENTS TO INDIANS

Program and Financing (in thousands of dollars)

Identification code	1994 Actual	1995 Estimate	1996 Estimate
14-2303-0-1-452			
Program by activities.			
1 White Earth Settlement Act administration.	626	596	622
2 Old Age Assistance Claims Settlement Act	550	620	225
3 Hoopa Yurok Settlement	167	633	238
4 Zuni Land Conservation Act.	9,000	--	--
5 Fallon Water Rights Settlement and T J Drain	8,000	11,200	8,000
6 Pyramid Lake Water Rights Settlement.	8,700	8,000	10,000
7 Fort Hall Water Rights Settlement	5,216	--	--
8 Fort McDowell Water Rights Settlement	1,285	--	--
9 Trust fund deficiencies	3,598	3,000	13,668
10 Penobscot Settlement	215	--	--
11 Southern Arizona Water Rights Settlement	--	--	3,000
12 Ute Indian Water Rights Settlement	17,198	20,651	25,000
13 San Carlos Apache Water Rights Settlement	38,400	--	--
14 Jicarilla Apache Water Rights Settlement	2,000	2,000	2,000
15 Navajo Indian Irrigation Project.	--	--	34,400
16 Three Affiliated Tribes Compensation Act	6,000	6,000	6,000
17 Water Rights Studies/Negotiations	--	--	14,472
18 Northern Cheyenne	--	16,900	25,600
19 Yavapai-PreScott	--	300	--
20 Catawba	--	8,000	8,000
21 Crow Boundary Settlement Act.	--	2,675	--
10 00 Total obligations	100,955	80,575	151,025
Financing.			
21 40 Unobligated balance available, start of year	(5,578)	(7,882)	(7,078)
24 40 Unobligated balance available, end of year	7,882	7,078	7,078
39 00 Budget authority (gross)	103,259	79,771	151,025
Budget authority.			
Current.			
40 00 Appropriation	103,259	77,096	151,025
Permanent.			
60 00 Appropriation (definite)	--	2,675	--
Relation of obligations to outlays.			
71 00 Total obligations	100,955	80,575	151,025
72 40 Obligated balance, start of year			
Treasury balance	315	182	4,835
74 40 Obligated balance, end of year			
Treasury balance	(182)	(4,835)	(12,227)
90 00 Outlays	101,068	75,922	143,633